

§ 534.4

“Predecessor” means a manufacturer whose rights have been vested in and whose burdens have been assumed by another manufacturer.

“Successor” means a manufacturer that has become vested with the rights and assumed the burdens of another manufacturer.

§ 534.4 Successors and predecessors.

For purposes of the automotive fuel economy program, “manufacturer” includes “predecessors” and “successors” to the extent specified in paragraphs (a) through (d) of this section.

(a) Successors are responsible for any civil penalties that arise out of fuel economy shortfalls incurred and not satisfied by predecessors.

(b) If one manufacturer has become the successor of another manufacturer during a model year, all of the vehicles produced by those manufacturers during the model year are treated as though they were manufactured by the same manufacturer. A manufacturer is considered to have become the successor of another manufacturer during a model year if it is the successor on September 30 of the corresponding calendar year and was not the successor for the preceding model year.

(c) Credits earned by a predecessor before or during model year 2007 may be used by a successor, subject to the availability of credits and the general three-year restriction on carrying credits forward and the general three-year restriction on carrying credits backward. Credits earned by a predecessor after model year 2007 may be used by a successor, subject to the availability of credits and the general five-year restriction on carrying credits forward and the general three-year restriction on carrying credits backward.

(d) Credits earned by a successor before or during model year 2007 may be used to offset a predecessor’s shortfall, subject to the availability of credits and the general three-year restriction on carrying credits forward and the general three-year restriction on carrying credits backward. Credits earned by a successor after model year 2007 may be used to offset a predecessor’s shortfall, subject to the availability of credits and the general five-year restriction on carrying credits forward

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and the general three-year restriction on carrying credits backward.

[69 FR 77671, Dec. 28, 2004, as amended at 74 FR 14452, Mar. 30, 2009]

EFFECTIVE DATE NOTE: At 76 FR 57492, Sept. 15, 2011, § 534.4 was revised, effective November 14, 2011. For the convenience of the user, the revised text is set forth as follows:

§ 534.4 Successors and predecessors.

For purposes of the fuel economy and fuel consumption programs, “manufacturer” includes “predecessors” and “successors” to the extent specified in this section.

(a) Successors are responsible for any civil penalties that arise out of fuel economy and fuel consumption shortfalls incurred and not satisfied by predecessors.

(b) If one manufacturer has become the successor of another manufacturer during a model year, all of the vehicles or engines produced by those manufacturers during the model year are treated as though they were manufactured by the same manufacturer. A manufacturer is considered to have become the successor of another manufacturer during a model year if it is the successor on September 30 of the corresponding calendar year and was not the successor for the preceding model year.

(c)(1) For passenger automobiles and light trucks, fuel economy credits earned by a predecessor before or during model year 2007 may be used by a successor, subject to the availability of credits and the general three-year restriction on carrying credits forward and the general three-year restriction on carrying credits backward. Fuel economy credits earned by a predecessor after model year 2007 may be used by a successor, subject to the availability of credits and the general five-year restriction on carrying credits forward and the general three-year restriction on carrying credits backward.

(2) For heavy-duty vehicles and heavy-duty vehicle engines, available fuel consumption credits earned by a predecessor after model year 2015, and in model years 2013, 2014 and 2015 if a manufacturer voluntarily complies in those model years, may be used by a successor, subject to the availability of credits and the general five-year restriction on carrying credits forward and the general three year restriction on carrying credits backward.

(d)(1) For passenger automobiles and light trucks, fuel economy credits earned by a successor before or during model year 2007 may be used to offset a predecessor’s shortfall, subject to the availability of credits and the general three-year restriction on carrying credits forward and the general three-year restriction on carrying credits backward. Credits earned by a successor after model

year 2007 may be used to offset a predecessor's shortfall, subject to the availability of credits and the general five-year restriction on carrying credits forward and the general three-year restriction on carrying credits backward.

(2) For heavy-duty vehicles and heavy-duty vehicle engines, available credits earned by a successor after model year 2015, and in model years 2013, 2014 and 2015, if a manufacturer voluntarily complies in those model years, may be used by a predecessor subject to the availability of credits and the general five-year restriction on carrying credits forward and the general three year restriction on carrying credits backward.

§ 534.5 Manufacturers within control relationships.

(a) If a civil penalty arises out of a fuel economy shortfall incurred by a group of manufacturers within a control relationship, each manufacturer within that group is jointly and severally liable for the civil penalty.

(b) A manufacturer is considered to be within a control relationship for an entire model year if and only if it is within that relationship on September 30 of the calendar year in which the model year ends.

(c) Credits of a manufacturer within a control relationship may be used by the group of manufacturers within the control relationship to offset shortfalls, subject to the agreement of the other manufacturers, the availability of the credits, and the general three-year restriction on carrying credits forward or backward prior to or during model year 2007, or the general five-year restriction on carrying credits forward and the general three-year restriction on carrying credits backward after model year 2007.

(d) If a manufacturer within a group of manufacturers is sold or otherwise spun off so that it is no longer within that control relationship, the manufacturer may use credits that were earned by the group of manufacturers within the control relationship while the manufacturer was within that relationship, subject to the agreement of the other manufacturers, the availability of the credits, and the general three-year restriction on carrying credits forward or backward prior to or during model year 2007, or the general five-year restriction on carrying credits forward and the general three-year restriction on

carrying credits backward after model year 2007.

(e) Agreements among manufacturers in a control relationship related to the allocation of credits or liabilities addressed by this section shall be filed with the agency within 60 days of the end of each model year in the same form as specified in section 534.6. The manufacturers may seek confidential treatment for information provided in the certified report in accordance with 49 CFR Part 512.

[69 FR 77671, Dec. 28, 2004, as amended at 74 FR 14452, Mar. 30, 2009]

EFFECTIVE DATE NOTE: At 76 FR 57492, Sept. 15, 2011, § 534.5 was amended by revising paragraphs (a), (c) and (d), effective November 14, 2011. For the convenience of the user, the revised text is set forth as follows:

§ 534.5 Manufacturers within control relationships.

(a) If a civil penalty arises out of a fuel economy or fuel consumption shortfall incurred by a group of manufacturers within a control relationship, each manufacturer within that group is jointly and severally liable for the civil penalty.

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(c)(1) For passenger automobiles and light trucks, fuel economy credits of a manufacturer within a control relationship may be used by the group of manufacturers within the control relationship to offset shortfalls, subject to the agreement of the other manufacturers, the availability of the credits, and the general three year restriction on carrying credits forward or backward prior to or during model year 2007, or the general five year restriction on carrying credits forward and the general three-year restriction on carrying credits backward after model year 2007.

(2) For heavy-duty vehicles and heavy-duty engines, credits of a manufacturer within a control relationship may be used by the group of manufacturers within the control relationship to offset shortfalls, subject to the agreement of the other manufacturers, the availability of the credits, the general 5-year restriction on carrying credits forward, and the general three year restriction on offsetting past credit shortfalls as specified in the requirements of 49 CFR 535.7.

(d)(1) For passenger automobiles and light trucks, if a manufacturer within a group of manufacturers is sold or otherwise spun off so that it is no longer within that control relationship, the manufacturer may use credits that were earned by the group of manufacturers within the control relationship while